

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
2007 FEB 16 PM 4:13

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

JOSIF LENTOS,

) Case No. _____ OFFICE OF THE CLERK

Plaintiff,

4:07cv 3045

v.

Lancaster County District Court

Case No. CI07-231

HAWKINS CONSTRUCTION
COMPANY,

NOTICE OF REMOVAL

Defendant.

Defendant, Hawkins Construction Company ("Hawkins"), by and through counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, removes this action to the United States District Court for the District of Nebraska, from the District Court of Lancaster County, Nebraska. The grounds for removal are:

1. On or about January 18, 2007, Josif Lentos filed a lawsuit against Hawkins in the District Court of Lancaster County, Nebraska, styled *Josif Lentos v. Hawkins Construction Co.*, Case No. CI07-231 (hereinafter "the Action"). The Action is now pending before that Court.

2. This civil Action is filed pursuant to and governed by the Americans with Disabilities Act of 1990, 42 U.S.C. § 12111, *et seq.* and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e), *et seq.*

3. The Action is one in which the United States District Court has original jurisdiction under 28 U.S.C. § 1331, in that this case arises under and pursuant to the laws of the United States.

4. The Complaint was filed in the Action on January 18, 2007.

5. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty days after the receipt of Hawkins, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which the action is based.

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA
575 S. 10th Street - 3rd Floor
SEPARATE JUVENILE COURT-4th Floor
Lincoln NE 68508
SUMMONS

Josif Lentos v. Hawkins Construction Co

Case ID: CI 07 231

TO: Hawkins Construction Co

You have been sued by the following plaintiff(s):

Josif Lentos

Plaintiff's Attorney: Joy Shiffermiller
Address: 3930 South St, Ste 101
Lincoln, NE 68506

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties within 30 days of service of the complaint/petition and filed with the office of the clerk of the court within a reasonable time after service. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: JANUARY 19, 2007 BY THE COURT:

Sherri J. Kanyuk, Deputy
Clerk

PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

Hawkins Construction Co
c/o Kim M Hawkins reg agt
2516 Deer Park Blvd
Omaha, NE 68105



Method of service: Certified Mail

You are directed to make such service within twenty days after date of issue, and show proof of service as provided by law.

EXHIBIT

1

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

JOSIF LENTOS,
Plaintiff,
vs.
HAWKINS CONSTRUCTION CO.,
Defendant.

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CASE NO. 1207-231

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COMPLAINT AND DEMAND FOR
JURY TRIAL

COMES NOW the Plaintiff, by and through his attorney, and for his cause of action against the Defendant, states and alleges as follows:

1. Plaintiff is a resident and inhabitant of Lincoln, Lancaster County Nebraska, and is non-hispanic being of Bosnian National Origin.
 2. Defendant is a Corporation duly formed and existing under the laws of the State of Nebraska does general construction work in Lincoln, Lancaster County, Nebraska.
 3. Plaintiff applied for a job in Lincoln, Lancaster County, Nebraska at

their offices at , 317 So. 12th Street suite 100, and the acts and events complained about therein arose out of his application for the job in this county and thus venue is proper in Lancaster County.

4. The Plaintiff's cause of action arises under federal law, 42 USC 2000(e) et seq., for discrimination on the basis of National Origin, and American's with Disabilities Act 42 USC 12,101 et seq.

5. Plaintiff applied for and was hired for a concrete finisher position with the Defendant in February 2006.

6. The Plaintiff was well qualified for said position and was offered the job on April 19, 2006, subject to a post-offer, pre-employment physical.

7. Plaintiff was subjected to a post- offer pre-employment physical for the position which he passed.

8. Plaintiff does not have a disability, however he had a record of a disability and the Defendant perceived him as disabled. Plaintiff was fully capable of performing the essential functions of the concrete finisher position.

9. After the post- offer, pre-employment physical, on or about April 28th, 2006, the defendant through their agent, Mark Pope, informed Plaintiff he "could not be hired" because of his medical problems from the past.

10. Defendant perceives the Plaintiff to be disabled from a broad class of jobs, and Plaintiff has a record of a disability of which the Defendants became aware, and thus he is entitled to protection under the American's with Disabilities Act 42 USC 12, 101 et seq.

11. Defendant violated the ADA 42 USC § 12112(d) by requiring the Plaintiff to be subjected to a physical examination which was not job related or consistent with business necessity, and which was used as the basis for denying to Plaintiff the job, which was offered, contingent on said medical exam.

12. Defendant also chose to hire an hispanic, rather than hiring someone of non-hispanic, National Origin.

13. As a result of said perception of the Plaintiff as disabled , and/or his record of a disability and/or because said medical examination, the Plaintiff was rejected for employment by the Defendant, Plaintiff has been damaged thereby.

14. Plaintiff has met all administrative prerequisites of suit by filing a charge of discrimination and recieving a right to sue letter and filing this suit.

WHEREFORE, the Plaintiff respectfully requests this Court to issue a judgment against the Defendant and award him:

- a) Lost wages and fringe benefits to date of trial;
- b) Reinstatement or front pay;
- c) Compensatory damages for emotional pain suffering, inconvenience, mental anguish, loss of enjoyment of life and other pecuniary and non pecuniary losses.
- d) Assess punitive damages against the Defendant to the maximum

extent allowed by law;

e) Award Plaintiff reasonable attorney fees and costs of this trial;

and

g) Award the Plaintiff such further relief as the Court deems just and proper.

Plaintiff hereby demands a Jury Trial in Lincoln, Nebraska.

JOSIF LENTOS, Plaintiff

By:

Joy Shifermiller # 18164

SHIFFERMILLER LAW OFFICE

3930 South Street, Suite 101

Lincoln, NE 68506

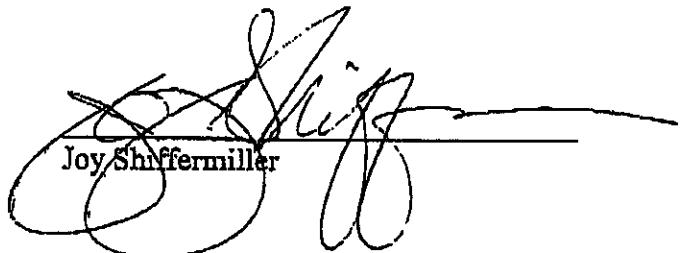
(402) 484-7700

PRAECIPE

TO THE CLERK OF SAID COURT:

Please issue a summons and return the same with a copy of the Complaint, to attorney for the Plaintiff, Joy Shifermiller, at 3930 South Street., Suite 101, Lincoln, Nebraska, 68506, so that said summons may be served on Defendant by certified mail at the following address:

HAWKINS CONSTRUCTION COMPANY
c/o KIM M. HAWKINS, registered agent
2516 DEER PARK BOULEVARD
OMAHA, NE 68105-0000


Joy Shifermiller